

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 549 w/CS K-12 GI Bill Program

**SPONSOR(S):** Baker

**TIED BILLS:** None.

**IDEN./SIM. BILLS:** (S) SB 1544

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Veterans' &amp; Military Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Smith</u>	<u>Cutchins</u>
2) <u>Local Government &amp; Veterans' Affairs</u>	<u>15 Y, 4 N w/CS</u>	<u>Smith</u>	<u>Cutchins</u>
3) <u>Education Appropriations (Sub)</u>	<u></u>	<u></u>	<u></u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

This bill creates the K-12 GI Bill Program. This program creates three educational options for dependents of a Florida veteran as defined in section 1.01, Florida Statutes, an active duty member of any branch of the United States Armed Forces, an active or retired member of the Florida National Guard, or an active member of the Armed Forces Reserves: (1) to attend, a public school in the school district other than the one to which they are assigned, (2) to receive a K-12 GI Bill to attend a public school in an adjacent school district, or (3) to receive a K-12 GI Bill to attend an eligible private school of their choice. The bill creates two types of K-12 GI Bills: (1) a K-12 GI Bill for the amount of \$3,600 or for the amount of tuition and fees, whichever is less, of a student enrolled in an eligible private school, and (2) a K-12 GI Bill for the amount of transportation expenses, or \$500, whichever is less, for parents of students who choose to enroll in a Florida public school that is located outside the school district in which the student resides. The bill establishes student eligibility and private school criteria for participation in the program. The bill also specifies school district, Department of Education, and family obligations related to this program. This bill provides for the funding and payment of K-12 GI Bills.

The fiscal impact of the bill is indeterminate.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0549b.lgv.doc

**DATE:** March 9, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |  |   |
|--------------------------------------|---|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

This bill creates the K-12 GI Bill Program. This bill also directs the State Board of Education to adopt rules pursuant to sections 120.536(1) and 120.54, Florida Statutes, to administer this bill.

School districts must report all students participating in the program on a quarterly basis.

#### B. EFFECT OF PROPOSED CHANGES:

This bill creates section 1002.395, Florida Statutes, and establishes the K-12 GI Bill Program. This program creates three educational options for the dependents of a Florida veteran as defined in section 1.01, Florida Statutes, an active duty member of any branch of the United States Armed Forces, an active or retired member of the Florida National Guard, or an active member of the Armed Forces Reserves: (1) to attend, a public school in the school district other than the one to which they are assigned, (2) to receive a K-12 GI Bill to attend a public school in an adjacent school district, or (3) to receive a K-12 GI Bill to attend an eligible private school of their choice. The bill creates two types of K-12 GI Bills: (1) a K-12 GI Bill for the amount of \$3,600 or for the amount of tuition and fees, whichever is less, of a student enrolled in an eligible private school, and (2) a K-12 GI Bill for the amount of transportation expenses, or \$500, whichever is less, for parents of students who choose to enroll in a Florida public school that is located outside the school district in which the student resides. The bill establishes student eligibility and private school criteria for participation in the program. The bill also specifies school district, Department of Education, and family obligations related to this program. This bill provides for the funding and payment of K-12 GI Bills.

The K-12 GI Bill sets forth requirements for the school district, Department of Education, and family obligations related to this program.

The bill provides an eligibility requirement for the K-12 GI Bill that the parent has notified the school district<sup>1</sup> that the student is a dependent of a Florida veteran as defined in section 1.01, Florida Statutes, an active duty member of any branch of the United States Armed Forces, active or retired member of the Florida National Guard, or an active member of the Armed Forces Reserves, has obtained acceptance for admission of the student to an eligible private school, and has notified the school district of the request for a K-12 GI Bill at least 60 days prior to the date of the first K-12 GI Bill payment.

The bill does not extend eligibility in the program to a student who is enrolled in a school operating for the purpose of providing educational services to youth in the Department of Juvenile Justice commitment programs. The bill does provide that the K-12 GI Bill remains in force until the student returns to a public school or graduates from high school. However, at any time a parent may remove the student from the private school and place the student in another private school that is eligible to provide educational opportunities for students whose families opt to use a K-12 GI Bill.

<sup>1</sup> Through the Department of Education or directly to the District by dated written or electronic communication.

The school district is required to:

- Timely notify the parent of each student, who the school district has knowledge is a dependent of a Florida veteran as defined in section 1.01, Florida Statutes, an active duty member of any branch of the United States Armed Forces, active or retired member of the Florida National Guard, or an active member of the Armed Forces Reserves, of all options available as part of the K-12 GI Bill Program.
- Offer the student's parent an opportunity to enroll the student in another public school within the district.
- Permit the student to attend the public school chosen by the parent until the student graduates. The option under this paragraph is on a space-available basis. A student who is the dependent of a parent on active duty is given first priority, provided that this option is not available if it results in a violation of the constitutional class size requirements.
- Provide transportation if a parent chooses a school consistent with the district's choice plan as provided in section 1002.31, Florida Statutes.
- Accept students from an adjacent district if space is available and report them for purposes of district funding, if parents elect this option and space is available.
- Provide locations and times for administration of statewide assessments if a parent requests student participation in statewide assessments.
- Notify the Department of Education within 10 days after receiving notification of a parent's intent to apply for a K-12 GI Bill.
- Report all students attending private schools on a K-12 GI Bill. The students attending private schools on K-12 GI Bills will be reported separately from other students reported for purposes of the Florida Education Finance Program.

Requirements for private school eligibility:

- Must be a Florida private school; may be sectarian or nonsectarian.
- Demonstrate fiscal soundness by being in operation for two years or filing a surety bond or letter of credit for an amount equal to the K-12 GI Bill funds for each quarter.
- Notify Department of Education of intent to participate in the program and the grade levels and services that can be provided.
- Comply with federal antidiscrimination provisions.
- Meet state and local health and safety laws and codes.
- Be academically accountable to the parent.
- Employ or contract with teachers who hold a baccalaureate or higher degree, have at least three years of teaching experience, or have special skills, knowledge, or expertise in the subjects taught.
- Comply with all state laws relating to private schools.
- Adhere to the tenets of its published disciplinary procedures before expelling a K-12 GI Bill student.

Obligations of families using K-12 GI Bill Program:

- Apply for the admission of his or her child.
- Notify and request the K-12 GI Bill from the school district at least 60 days prior to the date of the first K-12 GI Bill payment.
- Ensure the student must remain in attendance throughout the school year, unless excused for illness or other good cause, and must comply with the school's code of conduct.
- Comply with the private school's parental involvement requirements.
- Transport the student to the assessment site designated by the school district, if the parent requests statewide assessments.
- Restrictively endorse the warrant to the private school upon receipt of the K-12 GI Bill warrant.

Failure to comply with any of the above requirements results in the forfeiture of the K-12 GI Bill.

K-12 GI Bill Program Funding:

- The amount of a K-12 GI Bill provided to any child enrolled in an eligible private school for any single school year is not to exceed \$3,600 annually, or the amount of tuition and fees, whichever is less.
- The K-12 GI Bill provided to a student enrolled in a Florida public school that is located outside the school district in which the student resides is not to exceed \$500, or the amount of transportation expenses, whichever is less.

If a private school requires a partial payment of tuition before the start of the academic year, the Department of Education may pay that amount, up to \$1,000, prior to the first quarterly payment of the year in which the K-12 GI Bill is provided. There is a limit of one reservation payment per student per year. If the student opts not to attend, the private school must return this money to the Department of Education.

Following notification on July 1, September 1, December 1, or February 1, of the number of students attending private schools on K-12 GI Bills, the Department of Education will transfer from only General Revenue funds, the total amount of the K-12 GI Bills from the school district's total funding entitlement under the Florida Education Finance Program to a separate account for the K-12 GI Bills for quarterly disbursement to the parents of K-12 GI Bill students. When a student enters a private school on a K-12 GI Bill, the Department of Education must receive all documentation required for student participation in the K-12 GI Bill Program, including the private school's and student's fee schedules, at least 30 days prior to the first quarterly payment is made for the student. The Department of Education may not make any retroactive payments.

The Chief Financial Officer will issue warrants to parents no later than September 1, November 1, February 1, and April 15 of each academic year in which the K-12 GI Bill is in force. A parent must give a school district notice of intent to participate in the K-12 GI Bill program 60 days before the first payment is made. There are no retroactive payments. The warrant must be made payable to the student's parent, and the parent must restrictively endorse the warrant to the private school for deposit into the school's account.

No liability shall arise on the part of the state based on the award or use of a K-12 GI Bill.

The State Board of Education may adopt rules to administer the program.

The bill also amends section 1002.20, Florida Statutes, to include the program as an option under public and private school choices.

**Present Situation:**

There are a number of educational choices currently provided by statute. These educational choices are part of the K-12 student and parent rights and include both public and private school choices.

Public school parental choice is available through each district school board, which is required to develop a plan that provides controlled open enrollment in the public schools as an addition to existing choice programs such as magnet schools, alternative schools, special programs, advanced placement, and dual enrollment.

The public school choice options provided in Part III of chapter 1002.20, Florida Statutes, include:

- Developmental research (laboratory) schools which are affiliated with the college of education of the state university of closest geographic proximity and which provide sequential instruction;
- Charter schools that are public schools operated under a charter;

- Charter technical career centers that are public schools or public technical centers operated under a charter and which develop a competitive workforce to support local business and industry and economic development; create a training and education model that is reflective of marketplace realities; offer a continuum of career educational opportunities; provide career pathways; and enhance career and technical training;
- The New World School of the Arts, a center of excellence for the performing and visual arts, which is assigned to Miami-Dade Community College and the Dade County School District, and one or more universities, and offers a program of academic and artistic studies in the visual and performing arts that is available to talented high school and college students;
- The Florida School for the Deaf and the Blind, a state-supported residential school for hearing-impaired and visually impaired students in preschool through 12<sup>th</sup> grade, which is part of the state system of public education and is funded through the Department of Education; and
- The Florida Virtual School which provides students with technology-based educational opportunities to gain the knowledge and skills necessary to succeed through the development and delivery of on-line and distance learning education.

The private school choice options provided in Part III of chapter 1002, Florida Statutes, include:

- The Opportunity Scholarship Program which allows the parent of a student in a failing public school to request and receive an opportunity scholarship for the student to attend a private school in accordance with the provisions of section 1002.38, Florida Statutes.
- The McKay Scholarships for Students with Disabilities Program which permits the parent of a public school student with a disability who is dissatisfied with the student's progress to request and receive a McKay Scholarship for the student to attend a private school in accordance with the provisions of section 1002.39, Florida Statutes.
- The corporate income tax credit scholarship program which provides private school choice options by allowing the parent of a student who qualifies for free or reduced-price school lunch to seek a scholarship from an eligible nonprofit scholarship-funding organization in accordance with the provisions of section 220.187, Florida Statutes.

Other alternative educational options provided in chapter 1002, Florida Statutes, include:

- Home education - the parent of a student may choose to place the student in a home education program in accordance with the provisions of section 1002.41, Florida Statutes; and
- Private tutoring - the parent of a student may choose to place the student in a private tutoring program in accordance with the provisions of section 1002.43(1), Florida Statutes.

#### C. SECTION DIRECTORY:

Section 1 creates section 1002.395, Florida Statutes, the K-12 GI Bill Program.

Subsection 1 provides the purpose of the K-12 GI Bill Program.

Subsection 2 describes the K-12 GI Bill Program.

Subsection 3 sets forth K-12 GI Bill eligibility.

Subsection 4 outlines school district obligations.

Subsection 5 addresses private school eligibility.

Subsection 6 provides the obligations of families opting to use a K-12 GI Bill.

Subsection 7 sets forth K-12 GI Bill funding and payment.

Subsection 8 limits liability on the part of the state.  
Subsection 9 allows Department of Education to adopt rules.

Section 2 amends paragraphs (a) and (b) of subsection (6) of section 1002.20, Florida Statutes, to add the K-12 GI Bill Program to the list of public school choice options for student and parent rights to educational choice.

Section 3 provides an effective date of upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

This bill does not appear to have a fiscal impact on state revenues.

#### 2. Expenditures:

The bill does not require an appropriation; however, it does require transfer of Florida Education Finance Program and categorical program funds by the Department of Education from public school districts to a separate account for quarterly disbursement to the parents of students taking the scholarship to a private school.

Currently, the Department of Education does not collect data on dependents of veterans or active military personnel. It appears that the bill may require the Department of Education to verify students who are dependents of veterans or active military personnel for program participation. If so, there may be additional costs associated with data research and updates to the current website to allow for such verification.

Reference "D. FISCAL COMMENTS:" for additional information.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

Reference "D. FISCAL COMMENTS:" for additional information.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the draft analysis provided by Department of Education<sup>2</sup>, private schools may receive additional resources from students able to participate in this program. Private schools may also incur further expenses related to hiring faculty, adding programs, etc. to accommodate the new students.

### D. FISCAL COMMENTS:

Complete data for the number of dependents of Florida's veterans and active military personnel does not appear to be available. According to the Department of Veterans' Affairs, there is no accurate count of the number of dependents of Florida veterans in K-12 Florida schools.<sup>3</sup> According to the

<sup>2</sup> Florida Department of Education. *Draft Analysis for HB 549 on K-12 GI Bill Program* (February 2, 2004) (on file with the Committee on Local Government and Veterans' Affairs).

<sup>3</sup> E-mail from Matt Ubben, DVA (February 20, 2004) (on file with the Committee on Local Government & Veterans' Affairs).

Department of Military Affairs, of the 5,800 soldiers activated, there are approximately 4,100 dependents.<sup>4</sup> According to the draft analysis provided by the Department of Education<sup>5</sup>, for 2003-04, there were 24,723 nondisabled children of military parents reported by Florida school districts for the Federal Impact Aid program.<sup>6</sup>

An assumption by the Department of Education<sup>7</sup> is that parents of children with disabilities would choose to participate in the John M. McKay scholarship program which would provide a greater scholarship amount.

Based on the level of participation in other choice programs, the Department of Education estimates that parents of approximately one-third (33%) of eligible nondisabled children would take advantage of the K-12 GI Bill program. This percentage would likely increase after the initial year of implementation as information about the program is made more widely available.

The Department of Education indicates there may ultimately be some cost savings to the State from this program. Based on the proposed limit of \$3,600 per K-12 GI Bill, the net annual costs to the state for these participants will decrease. Using the 2003-04 base student allocation of \$3,630.03, this would result in an annual savings to the state of \$30.03 per FTE for each student who elects to attend a private school.

However, due to uncertainty in the number of students who would be initially enrolled in the program, the actual cost to implement the program is indeterminate.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

This bill does not reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

This program has similarities to the private school choice option provided under the Opportunity Scholarship Program, which is set forth in section 1002.38, Florida Statutes (formerly section 229.0537, Florida Statutes)(OSP statute). The OSP statute has been and continues to be the subject of constitutional challenges:

- a. The claim that the OSP statute violated Article IX, Section 1 of the Florida Constitution was rejected by the First District Court of Appeal in 2000.<sup>8</sup>

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<sup>4</sup> E-mail from LTC Glenn Sutphin, DMA (February 20, 2004) (on file with the Committee on Local Government & Veterans' Affairs).

<sup>5</sup> *Draft Analysis, supra* note 1.

<sup>6</sup> Impact Aid is a federal program that provides funding for a portion of the educational costs of federally-connected students. It is an in-lieu-of-tax program - in other words, it is the federal government paying its "tax bill" to local school districts as a result of the presence of a military installation. Impact Aid is the only federal education program where the funds are sent directly to the school district. The funds go directly into the school district's general fund for operations such as purchase of textbooks, computers, utilities, and payment of staff salaries. School districts must conduct a "first count" student survey each year to identify the number of federally-connected students. School districts must then submit an application directly to the U.S. Department of Education by January 31 containing the results of the "first count."

<sup>7</sup> *Draft Analysis, supra* note 1.

- b. The claim that the OSP statute violated the establishment clause of the U.S. Constitution was resolved by the U.S. Supreme Court in 2002.<sup>9</sup>
- c. The claim that the OSP statute violated Article IX, Section 6 of the Florida Constitution was voluntarily dismissed in 2002.<sup>10</sup>
- d. A circuit court found that the OSP statute violated Article IX, section 3 of the Florida Constitution in 2002.<sup>11</sup> That decision is currently on appeal before the First District Court of Appeal.

**B. RULE-MAKING AUTHORITY:**

This bill directs the State Board of Education to adopt rules pursuant to sections 120.536(1) and 120.54, Florida Statutes, to administer this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

While the requirements for parents, students, districts, the Department of Education, and private schools are similar to other scholarship programs, the following recommendations by the Department of Education would provide for additional consistency:

- Page 6, line 138, replace “2 school years” with “3 school years” to be consistent with other scholarship program requirements.
- Page 8, lines 201-202, strike “or the amount of transportation expenses, whichever is less,” it is difficult to determine parents’ expenditures for transportation. Other similar scholarship programs do not include a “lessor of” clause with regard to transportation.
- Page 9, line 238, replace April 15 with April 1 to be consistent with similar scholarship programs.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The Committee on Local Government & Veterans’ Affairs adopted one strike-all amendment and one amendment to the amendment and passed the bill on March 3, 2004. The strike-all amendment expands and clarifies the benefit eligibility to dependents of any active duty member of any branch of the United States Armed Forces, active or retired member of the Florida National Guard, or an active member of the Armed Forces Reserves. The amendment deletes the requirement that a student must have spent the prior year in attendance at a Florida public school, and deletes duplicative language regarding the requirement of parents to request the K-12 GI Bill at least 60 days prior to the date of the first K-12 GI Bill payment. The amendment to the amendment provides that K-12 GI Bill students who choose to enroll in another public school within the district will be served on a space available basis and shall be given first priority. However, this option is not available if it results in a violation of the class size requirement.

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<sup>8</sup> See *Holmes v. Bush*, 2002 WL 1809079 (Fla. 2d Cir. Ct. 2002), citing *Bush v. Holmes*, 767 So.2d 768 (Fla. 1st DCA 2000).

<sup>9</sup> See *Holmes v. Bush*, 2002 WL 1809079 (Fla. 2d Cir. Ct. 2002), citing *Zelman v. Simmons-Harris*, 122 S.Ct. 2460 (2002).

<sup>10</sup> See *Holmes v. Bush*, 2002 WL 1809079 (Fla. 2d Cir. Ct. 2002).

<sup>11</sup> *Id.*